

## **CHAPTER 29.26 RESIDENTIAL FACILITIES FOR ELDERLY PERSONS AND PERSONS WITH A DISABILITY <sup>1</sup>**

### **29.26.010. Purpose.**

The purpose of this chapter is to:

- A. comply with Sections 10-9-502 and 10-9-605 of the Utah Code; and
- B. avoid discrimination in housing against persons with disabilities pursuant to the Utah Fair Housing Act and the Federal Fair Housing Act as interpreted by courts whose decisions are binding in Utah.

### **29.26.020. Scope.**

If any facility, residence, congregate living or other housing arrangement meets the definition of a residential facility for elderly persons or a residential facility for persons with a disability as set forth in this Title, the requirements of this Chapter shall govern the same notwithstanding any conflicting provision of this Title or the Brigham City Code. Except as provided herein, the requirements of this Chapter shall not be construed to prohibit or limit other applicable provisions of this Title, the Brigham City Code or other laws.

### **29.26.030. Permitted Uses.**

A. Permitted Uses. Notwithstanding any contrary provision of this Title, a residential facility for elderly persons and a residential facility for persons with a disability shall be permitted uses in any zone where a dwelling is allowed as a permitted or conditional use subject to the development standards in Section 29.26.040 of this Chapter.

- B. Termination. A use permitted by this Chapter is nontransferable and shall terminate if:
- 1. the facility is devoted to a use other than a residential facility for elderly persons or a residential facility for persons with a disability; or
  - 2. any license or certification issued by the Utah Department of Health or the Department of Human Services for such facility terminates or is revoked; or
  - 3. the facility fails to comply with requirements set forth in this Chapter.

### **29.26.040. Development Standards.**

The development standards set forth in this Section shall apply to any residential facility for elderly persons or residential facility for persons with a disability.

A. Building, Safety and Health Regulations. The facility shall comply with building, safety, and health regulations applicable to similar structures.

- 1. Each facility shall be subject to the same development standards applicable to similar structures located in the same zoning district in which the facility is located.
- 2. The minimum number of parking spaces required for a facility shall be the same as for similar structures located in the same zoning district in which the facility is located.

B. No Dangerous Persons Permitted. No facility shall be made available to an individual whose tendency would:

- 1. constitute a direct threat to the health or safety of other individuals; or
- 2. result in substantial physical damage to the property of others.

C. License and Certification. Prior to occupancy of any facility, the person or entity operating the facility shall:

- 1. provide to the City a copy of any license or certification required by the Utah State Department of Health or the Utah State Department of Human Services; and
- 2. certify in a sworn statement that no person will reside or remain in the facility whose tendency would:

- a) constitute a direct threat to the health or safety of other individuals; or
- b) result in substantial physical damage to the property of others.

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<sup>1</sup> Complete chapter added with Ordinance No. 01-14, dated 2/15/01

**29.26.050. Reasonable Accommodation Required.**

A. Reasonable Accommodation Required. None of the requirements of this Chapter shall be interpreted to limit any reasonable accommodation necessary to allow the establishment or occupancy of a residential facility for persons with a disability.

B. Application. Any person or entity wanting a reasonable accommodation shall make application therefore to the Zoning Administrator and shall articulate in writing the nature of the required accommodation and the basis for the request.

C. Decision. The Zoning Administrator shall render a decision on each application for a reasonable accommodation within thirty (30) days of its receipt.

D. Appeal. If a reasonable accommodation request is denied, the decision may be appealed to the Board of Adjustment in the manner provided for appeals of administrative decisions set forth in this Title.